

House Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 25

# HOUSE BILL 2180

AN ACT

AMENDING SECTIONS 13-3713, 32-1401 AND 32-1854, ARIZONA REVISED STATUTES;  
RELATING TO UNPROFESSIONAL CONDUCT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3713, Arizona Revised Statutes, is amended to  
3 read:

4 13-3713. Consideration for referral of patient, client or  
5 customer; fraud; violation; classification

6 A. EXCEPT FOR PAYMENTS FROM A MEDICAL RESEARCHER TO A PHYSICIAN  
7 LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 IN CONNECTION WITH  
8 IDENTIFYING AND MONITORING PATIENTS FOR A CLINICAL TRIAL REGULATED BY THE  
9 UNITED STATES FOOD AND DRUG ADMINISTRATION, a person who knowingly offers,  
10 delivers, receives or accepts any rebate, refund, commission, preference or  
11 other consideration as compensation for referring a patient, client or  
12 customer to any individual, pharmacy, laboratory, clinic or health care  
13 institution providing medical or health-related services or items pursuant  
14 to title 11, chapter 2, article 7 or title 36, chapter 29, other than  
15 specifically provided for in accordance with title 11, chapter 2, article 7  
16 or title 36, chapter 29, is guilty of:

17 1. A class 3 felony if the consideration had a value of one thousand  
18 dollars or more.

19 2. A class 4 felony if the consideration had a value of more than one  
20 hundred dollars but less than one thousand dollars.

21 3. A class 6 felony if the consideration had a value of one hundred  
22 dollars or less.

23 B. A person who knowingly presents false information or misrepresents  
24 or conceals a material fact on an application for medical or health coverage  
25 pursuant to title 36, chapter 29 or section 11-291 or who knowingly fails to  
26 notify the county of residence of a change in conditions which THAT, if  
27 notification had been made, would have resulted in termination of eligibility  
28 or change in eligibility status for medical or health coverage pursuant to  
29 title 36, chapter 29 or section 11-291 is guilty of a class 6 felony.

30 C. A person who knowingly obtains or attempts to obtain medical or  
31 health coverage pursuant to title 36, chapter 29 or section 11-291 by the use  
32 of any means of identification not authorized by the Arizona health care cost  
33 containment system administration or by the use of any means of  
34 identification authorized by the Arizona health care cost containment system  
35 administration which THAT has been or would have been fraudulently acquired  
36 is guilty of:

37 1. A class 5 felony if the value of the medical or health coverage or  
38 attempted coverage is one thousand dollars or more.

39 2. A class 6 felony if the value of the medical or health coverage or  
40 attempted coverage exceeds one hundred dollars but is less than one thousand  
41 dollars.

42 3. A class 1 misdemeanor if the value of the medical or health  
43 coverage or attempted coverage is one hundred dollars or less.

44 D. A person who knowingly counterfeits or alters any means of  
45 identification or uses, transfers, acquires or possesses counterfeited or

1 altered identification for the purpose of fraudulently obtaining medical or  
2 health coverage pursuant to title 36, chapter 29 or section 11-291 is guilty  
3 of a class 4 felony.

4 E. A person lawfully entitled to medical or health coverage pursuant  
5 to title 36, chapter 29 or section 11-291 who knowingly furnishes, gives or  
6 lends his THAT PERSON'S means of identification to any person for the purpose  
7 of fraudulently obtaining medical or health coverage pursuant to title 36,  
8 chapter 29 or section 11-291 is guilty of a class 6 felony.

9 F. A person who knowingly aids or abets another person as prescribed  
10 by PURSUANT TO section 13-301, 13-302 or 13-303 in the commission of an  
11 offense under this section or section 36-2905.04 is guilty of a class 5  
12 felony.

13 G. The county attorney of the county in which the violation occurs and  
14 the attorney general have concurrent jurisdiction to prosecute all violations  
15 specified in this section.

16 Sec. 2. Section 32-1401, Arizona Revised Statutes, is amended to read:

17 32-1401. Definitions

18 In this chapter, unless the context otherwise requires:

19 1. "Active license" means a valid and existing license to practice  
20 medicine.

21 2. "Adequate records" means legible medical records containing, at a  
22 minimum, sufficient information to identify the patient, support the  
23 diagnosis, justify the treatment, accurately document the results, indicate  
24 advice and cautionary warnings provided to the patient and provide sufficient  
25 information for another practitioner to assume continuity of the patient's  
26 care at any point in the course of treatment.

27 3. "Advisory letter" means a nondisciplinary letter to notify a  
28 licensee that either:

29 (a) While there is insufficient evidence to support disciplinary  
30 action the board believes that continuation of the activities that led to the  
31 investigation may result in further board action against the licensee.

32 (b) The violation is a minor or technical violation that is not of  
33 sufficient merit to warrant disciplinary action.

34 (c) While the licensee has demonstrated substantial compliance through  
35 rehabilitation or remediation that has mitigated the need for disciplinary  
36 action, the board believes that repetition of the activities that led to the  
37 investigation may result in further board action against the licensee.

38 4. "Approved hospital internship, residency or clinical fellowship  
39 program" means a program at a hospital that at the time the training occurred  
40 was legally incorporated and that had a program that was approved for  
41 internship, fellowship or residency training by the accreditation council for  
42 graduate medical education, the association of American medical colleges, the  
43 royal college of physicians and surgeons of Canada or any similar body in the  
44 United States or Canada approved by the board whose function is that of  
45 approving hospitals for internship, fellowship or residency training.

1           5. "Approved school of medicine" means any school or college offering  
2 a course of study that, on successful completion, results in the degree of  
3 doctor of medicine and whose course of study has been approved or accredited  
4 by an educational or professional association, recognized by the board,  
5 including the association of American medical colleges, the association of  
6 Canadian medical colleges or the American medical association.

7           6. "Board" means the Arizona medical board.

8           7. "Completed application" means that the applicant has supplied all  
9 required fees, information and correspondence requested by the board on forms  
10 and in a manner acceptable to the board.

11          8. "Direct supervision" means that a physician, physician assistant  
12 licensed pursuant to chapter 25 of this title or nurse practitioner certified  
13 pursuant to chapter 15 of this title is within the same room or office suite  
14 as the medical assistant in order to be available for consultation regarding  
15 those tasks the medical assistant performs pursuant to section 32-1456.

16          9. "Dispense" means the delivery by a doctor of medicine of a  
17 prescription drug or device to a patient, except for samples packaged for  
18 individual use by licensed manufacturers or repackagers of drugs, and  
19 includes the prescribing, administering, packaging, labeling and security  
20 necessary to prepare and safeguard the drug or device for delivery.

21          10. "Doctor of medicine" means a natural person holding a license,  
22 registration or permit to practice medicine pursuant to this chapter.

23          11. "Full-time faculty member" means a physician employed full time as  
24 a faculty member while holding the academic position of assistant professor  
25 or a higher position at an approved school of medicine.

26          12. "Health care institution" means any facility as defined in section  
27 36-401, any person authorized to transact disability insurance, as defined  
28 in title 20, chapter 6, article 4 or 5, any person who is issued a  
29 certificate of authority pursuant to title 20, chapter 4, article 9 or any  
30 other partnership, association or corporation that provides health care to  
31 consumers.

32          13. "Immediate family" means the spouse, natural or adopted children,  
33 father, mother, brothers and sisters of the doctor and the natural or adopted  
34 children, father, mother, brothers and sisters of the doctor's spouse.

35          14. "Letter of reprimand" means a disciplinary letter that is issued  
36 by the board and that informs the physician that the physician's conduct  
37 violates state or federal law and may require the board to monitor the  
38 physician.

39          15. "Limit" means TAKING a nondisciplinary action that alters the  
40 physician's practice or professional activities if the board determines that  
41 there is evidence that the physician is or may be mentally or physically  
42 unable to safely engage in the practice of medicine.

43          16. "Medical assistant" means an unlicensed person who meets the  
44 requirements of section 32-1456, has completed an education program approved  
45 by the board, assists in a medical practice under the supervision of a doctor

1 of medicine, physician assistant or nurse practitioner and performs delegated  
2 procedures commensurate with the assistant's education and training but does  
3 not diagnose, interpret, design or modify established treatment programs or  
4 perform any functions that would violate any statute applicable to the  
5 practice of medicine.

6 17. "Medical peer review" means:

7 (a) The participation by a doctor of medicine in the review and  
8 evaluation of the medical management of a patient and the use of resources  
9 for patient care.

10 (b) Activities relating to a health care institution's decision to  
11 grant or continue privileges to practice at that institution.

12 18. "Medically incompetent" means a person who the board determines is  
13 incompetent based on a variety of factors including:

14 (a) A lack of sufficient medical knowledge or skills, or both, to a  
15 degree likely to endanger the health of patients.

16 (b) When considered with other indications of medical incompetence,  
17 failing to obtain a scaled score of at least seventy-five per cent on the  
18 written special purpose licensing examination administered by the board.

19 19. "Medicine" means allopathic medicine as practiced by the recipient  
20 of a degree of doctor of medicine.

21 20. "Physician" means a doctor of medicine licensed pursuant to this  
22 chapter.

23 21. "Practice of medicine" means the diagnosis, the treatment or the  
24 correction of or the attempt or the holding of oneself out as being able to  
25 diagnose, treat or correct any and all human diseases, injuries, ailments,  
26 infirmities, deformities, physical or mental, real or imaginary, by any  
27 means, methods, devices or instrumentalities, except as the same may be among  
28 the acts or persons not affected by this chapter. The practice of medicine  
29 includes the practice of medicine alone or the practice of surgery alone, or  
30 both.

31 22. "Restrict" means TAKING a disciplinary action that alters the  
32 physician's practice or professional activities if the board determines that  
33 there is evidence that the physician is or may be medically incompetent or  
34 guilty of unprofessional conduct.

35 23. "Special purpose licensing examination" means an examination  
36 developed by the national board of medical examiners on behalf of the  
37 federation of state medical boards for use by state licensing boards to test  
38 the basic medical competence of physicians who are applying for licensure and  
39 who have been in practice for a considerable period of time in another  
40 jurisdiction and to determine the competence of a physician under  
41 investigation by a state licensing board.

42 24. "Teaching hospital's accredited graduate medical education program"  
43 means that the hospital is incorporated and has an internship, fellowship or  
44 residency training program that is accredited by the accreditation council  
45 for graduate medical education, the American medical association, the

1 association of American medical colleges, the royal college of physicians and  
2 surgeons of Canada or a similar body in the United States or Canada approved  
3 by the board whose function is that of approving hospitals for internship,  
4 fellowship or residency training.

5 25. "Teaching license" means a valid license to practice medicine as  
6 a full-time faculty member of an approved school of medicine or a teaching  
7 hospital's accredited graduate medical education program.

8 26. "Unprofessional conduct" includes the following, whether occurring  
9 in this state or elsewhere:

10 (a) Violating any federal or state laws or rules and regulations  
11 applicable to the practice of medicine.

12 (b) Intentionally disclosing a professional secret or intentionally  
13 disclosing a privileged communication except as either act may otherwise be  
14 required by law.

15 (c) False, fraudulent, deceptive or misleading advertising by a doctor  
16 of medicine or the doctor's staff, employer or representative.

17 (d) Committing a felony, whether or not involving moral turpitude, or  
18 a misdemeanor involving moral turpitude. In either case, conviction by any  
19 court of competent jurisdiction or a plea of no contest is conclusive  
20 evidence of the commission.

21 (e) Failing or refusing to maintain adequate records on a patient.

22 (f) Habitual intemperance in the use of alcohol or habitual substance  
23 abuse.

24 (g) Using controlled substances except if prescribed by another  
25 physician for use during a prescribed course of treatment.

26 (h) Prescribing or dispensing controlled substances to members of the  
27 physician's immediate family.

28 (i) Prescribing, dispensing or administering schedule II controlled  
29 substances as defined in section 36-2513 including amphetamines and similar  
30 schedule II sympathomimetic drugs in the treatment of exogenous obesity for  
31 a period in excess of thirty days in any one year, or the non-therapeutic use  
32 of injectable amphetamines.

33 (j) Prescribing, dispensing or administering any controlled substance  
34 or prescription-only drug for other than accepted therapeutic purposes.

35 (k) Signing a blank, undated or predated prescription form.

36 (l) Conduct that the board determines is gross malpractice, repeated  
37 malpractice or any malpractice resulting in the death of a patient.

38 (m) Representing that a manifestly incurable disease or infirmity can  
39 be permanently cured, or that any disease, ailment or infirmity can be cured  
40 by a secret method, procedure, treatment, medicine or device, if such is not  
41 the fact.

42 (n) Refusing to divulge to the board on demand the means, method,  
43 procedure, modality of treatment or medicine used in the treatment of a  
44 disease, injury, ailment or infirmity.

1 (o) Action that is taken against a doctor of medicine by another  
2 licensing or regulatory jurisdiction due to that doctor's mental or physical  
3 inability to engage safely in the practice of medicine, the doctor's medical  
4 incompetence or for unprofessional conduct as defined by that jurisdiction  
5 and that corresponds directly or indirectly to an act of unprofessional  
6 conduct prescribed by this paragraph. The action taken may include refusing,  
7 denying, revoking or suspending a license by that jurisdiction or a  
8 surrendering of a license to that jurisdiction, otherwise limiting,  
9 restricting or monitoring a licensee by that jurisdiction or placing a  
10 licensee on probation by that jurisdiction.

11 (p) Sanctions imposed by an agency of the federal government,  
12 including restricting, suspending, limiting or removing a person from the  
13 practice of medicine or restricting that person's ability to obtain financial  
14 remuneration.

15 (q) Any conduct or practice that is or might be harmful or dangerous  
16 to the health of the patient or the public.

17 (r) Violating a formal order, probation, consent agreement or  
18 stipulation issued or entered into by the board or its executive director  
19 under the provisions of this chapter.

20 (s) Violating or attempting to violate, directly or indirectly, or  
21 assisting in or abetting the violation of or conspiring to violate any  
22 provision of this chapter.

23 (t) Knowingly making any false or fraudulent statement, written or  
24 oral, in connection with the practice of medicine or if applying for  
25 privileges or renewing an application for privileges at a health care  
26 institution.

27 (u) Charging a fee for services not rendered or dividing a  
28 professional fee for patient referrals among health care providers or health  
29 care institutions or between these providers and institutions or a  
30 contractual arrangement that has the same effect. THIS SUBDIVISION DOES NOT  
31 APPLY TO PAYMENTS FROM A MEDICAL RESEARCHER TO A PHYSICIAN IN CONNECTION WITH  
32 IDENTIFYING AND MONITORING PATIENTS FOR A CLINICAL TRIAL REGULATED BY THE  
33 UNITED STATES FOOD AND DRUG ADMINISTRATION.

34 (v) Obtaining a fee by fraud, deceit or misrepresentation.

35 (w) Charging or collecting a clearly excessive fee. In determining  
36 if a fee is clearly excessive, the board shall consider the fee or range of  
37 fees customarily charged in the state for similar services in light of  
38 modifying factors such as the time required, the complexity of the service  
39 and the skill requisite to perform the service properly. This subdivision  
40 does not apply if there is a clear written contract for a fixed fee between  
41 the physician and the patient that has been entered into before the provision  
42 of service.

43 (x) Fetal experiments conducted in violation of section 36-2302.

44 (y) The use of experimental forms of diagnosis and treatment without  
45 adequate informed patient consent, and without conforming to generally

1 accepted experimental criteria, including protocols, detailed records,  
2 periodic analysis of results and periodic review by a medical peer review  
3 committee as approved by the federal food and drug administration or its  
4 successor agency.

5 (z) Engaging in sexual conduct with a current patient or with a former  
6 patient within six months after the last medical consultation unless the  
7 patient was the licensee's spouse at the time of the contact or, immediately  
8 preceding the physician-patient relationship, was in a dating or engagement  
9 relationship with the licensee. For the purposes of this subdivision,  
10 "sexual conduct" includes:

11 (i) Engaging in or soliciting sexual relationships, whether consensual  
12 or nonconsensual.

13 (ii) Making sexual advances, requesting sexual favors or engaging in  
14 any other verbal conduct or physical contact of a sexual nature.

15 (iii) Intentionally viewing a completely or partially disrobed patient  
16 in the course of treatment if the viewing is not related to patient diagnosis  
17 or treatment under current practice standards.

18 (aa) Procuring or attempting to procure a license to practice medicine  
19 or a license renewal by fraud, by misrepresentation or by knowingly taking  
20 advantage of the mistake of another person or an agency.

21 (bb) Representing or holding oneself out as being a medical specialist  
22 when such is not the fact.

23 (cc) Maintaining a professional connection with or lending one's name  
24 to enhance or continue the activities of an illegal practitioner of medicine.

25 (dd) Failing to furnish information in a timely manner to the board  
26 or the board's investigators or representatives if legally requested by the  
27 board.

28 (ee) Failing to allow properly authorized board personnel on demand  
29 to examine and have access to documents, reports and records maintained by  
30 the physician that relate to the physician's medical practice or medically  
31 related activities.

32 (ff) Knowingly failing to disclose to a patient on a form that is  
33 prescribed by the board and that is dated and signed by the patient or  
34 guardian acknowledging that the patient or guardian has read and understands  
35 that the doctor has a direct financial interest in a separate diagnostic or  
36 treatment agency or in nonroutine goods or services that the patient is being  
37 prescribed and if the prescribed treatment, goods or services are available  
38 on a competitive basis. This subdivision does not apply to a referral by one  
39 doctor of medicine to another doctor of medicine within a group of doctors  
40 of medicine practicing together.

41 (gg) Using chelation therapy in the treatment of arteriosclerosis or  
42 as any other form of therapy, with the exception of treatment of heavy metal  
43 poisoning, without:

44 (i) Adequate informed patient consent.



1 (ii) Conforming to generally accepted experimental criteria, including  
2 protocols, detailed records, periodic analysis of results and periodic review  
3 by a medical peer review committee.

4 (iii) Approval by the federal food and drug administration or its  
5 successor agency.

6 (hh) Prescribing, dispensing or administering anabolic-androgenic  
7 steroids to a person for other than therapeutic purposes.

8 (ii) Lack of or inappropriate direction, collaboration or direct  
9 supervision of a medical assistant or a licensed, certified or registered  
10 health care provider employed by, supervised by or assigned to the physician.

11 (jj) Knowingly making a false or misleading statement to the board or  
12 on a form required by the board or in a written correspondence, including  
13 attachments, with the board.

14 (kk) Failing to dispense drugs and devices in compliance with article  
15 6 of this chapter.

16 (ll) Conduct that the board determines is gross negligence, repeated  
17 negligence or negligence resulting in harm to or the death of a patient.

18 (mm) The representation by a doctor of medicine or the doctor's staff,  
19 employer or representative that the doctor is boarded or board certified if  
20 this is not true or the standing is not current or without supplying the full  
21 name of the specific agency, organization or entity granting this standing.

22 (nn) Refusing to submit to a body fluid examination as required by the  
23 board pursuant to section 32-1452 or pursuant to a board investigation into  
24 a doctor of medicine's alleged substance abuse.

25 (oo) Failing to report in writing to the Arizona medical board or the  
26 Arizona regulatory board of physician assistants any evidence that a doctor  
27 of medicine or a physician assistant is or may be medically incompetent,  
28 guilty of unprofessional conduct or mentally or physically unable to safely  
29 practice medicine or to perform as a physician assistant.

30 (pp) The failure of a physician who is the chief executive officer,  
31 the medical director or the medical chief of staff of a health care  
32 institution to report in writing to the board that the hospital privileges  
33 of a doctor of medicine have been denied, revoked, suspended, supervised or  
34 limited because of actions by the doctor that appear to show that the doctor  
35 is or may be medically incompetent, is or may be guilty of unprofessional  
36 conduct or is or may be unable to engage safely in the practice of medicine.

37 (qq) Representing oneself to be a current member of the board, its  
38 staff or a board medical consultant if this is not true.

39 (rr) Failing to make patient medical records in the physician's  
40 possession promptly available to a physician assistant, a nurse practitioner,  
41 a person licensed pursuant to this chapter or a podiatrist, chiropractor,  
42 naturopathic physician, osteopathic physician or homeopathic physician  
43 licensed under chapter 7, 8, 14, 17 or 29 of this title on receipt of proper  
44 authorization to do so from the patient, a minor patient's parent, the

1 patient's legal guardian or the patient's authorized representative or  
2 failing to comply with title 12, chapter 13, article 7.1.

3 (ss) Prescribing, dispensing or furnishing a prescription medication  
4 or a prescription-only device as defined in section 32-1901 to a person  
5 unless the licensee first conducts a physical examination of that person or  
6 has previously established a doctor-patient relationship. This subdivision  
7 does not apply to:

8 (i) A physician who provides temporary patient supervision on behalf  
9 of the patient's regular treating licensed health care professional.

10 (ii) Emergency medical situations as defined in section 41-1831.

11 (iii) Prescriptions written to prepare a patient for a medical  
12 examination.

13 (iv) Prescriptions written or prescription medications issued for use  
14 by a county or tribal public health department for immunization programs,  
15 emergency treatment, in response to an infectious disease investigation,  
16 public health emergency, infectious disease outbreak or act of bioterrorism.  
17 For the purposes of this item, "bioterrorism" has the same meaning as  
18 prescribed in section 36-781.

19 Sec. 3. Section 32-1854, Arizona Revised Statutes, is amended to read:  
20 32-1854. Definition of unprofessional conduct

21 "Unprofessional conduct" includes the following acts, whether occurring  
22 in this state or elsewhere:

23 1. ~~Willfully~~ WILFULLY betraying a professional secret or wilfully  
24 violating a privileged communication except as either of these may otherwise  
25 be required by law. This paragraph does not prevent members of the board  
26 from exchanging information with the licensing and disciplinary boards of  
27 other states, territories or districts of the United States or with foreign  
28 countries or with osteopathic medical organizations located in this state or  
29 in any state, district or territory of this country or in any foreign  
30 country.

31 2. Committing a felony, whether or not involving moral turpitude, or  
32 a misdemeanor involving moral turpitude. In either case conviction by any  
33 court of competent jurisdiction is conclusive evidence of the commission.

34 3. Practicing medicine while under the influence of alcohol, narcotic  
35 or hypnotic drugs or any substance that impairs or may impair the licensee's  
36 ability to safely and skillfully practice medicine.

37 4. Being diagnosed by a physician licensed under this chapter or  
38 chapter 13 of this title or a psychologist licensed under chapter 19.1 of  
39 this title as excessively or illegally using alcohol or a controlled  
40 substance.

41 5. Prescribing, dispensing or administering controlled substances or  
42 prescription only drugs for other than accepted therapeutic purposes.

43 6. Engaging in the practice of medicine in a manner that harms or may  
44 harm a patient or that the board determines falls below the community  
45 standard.

- 1           7. Impersonating another physician.
- 2           8. Acting or assuming to act as a member of the board if this is not
- 3 true.
- 4           9. Procuring or attempting to procure a license to practice
- 5 osteopathic medicine by fraud or misrepresentation.
- 6           10. Having professional connection with or lending one's name to an
- 7 illegal practitioner of osteopathic medicine or any of the other healing
- 8 arts.
- 9           11. Representing that a manifestly incurable disease, injury, ailment
- 10 or infirmity can be permanently cured or that a curable disease, injury,
- 11 ailment or infirmity can be cured within a stated time, if this is not true.
- 12           12. Failing to reasonably disclose and inform the patient or the
- 13 patient's representative of the method, device or instrumentality the
- 14 licensee uses to treat the patient's disease, injury, ailment or infirmity.
- 15           13. Refusing to divulge to the board on demand the means, method,
- 16 device or instrumentality used in the treatment of a disease, injury, ailment
- 17 or infirmity.
- 18           14. Charging a fee for services not rendered or dividing a professional
- 19 fee for patient referrals. THIS PARAGRAPH DOES NOT APPLY TO PAYMENTS FROM
- 20 A MEDICAL RESEARCHER TO A PHYSICIAN IN CONNECTION WITH IDENTIFYING AND
- 21 MONITORING PATIENTS FOR A CLINICAL TRIAL REGULATED BY THE UNITED STATES FOOD
- 22 AND DRUG ADMINISTRATION.
- 23           15. Knowingly making any false or fraudulent statement, written or
- 24 oral, in connection with the practice of medicine except as the same may be
- 25 necessary for accepted therapeutic purposes.
- 26           16. Advertising in a false, deceptive or misleading manner.
- 27           17. Representing or holding oneself out as being an osteopathic medical
- 28 specialist if the physician has not satisfied the applicable requirements of
- 29 this chapter or board rules.
- 30           18. The refusal, revocation or suspension of a license by any other
- 31 state, territory, district or country, unless it can be shown that this
- 32 occurred for reasons that did not relate to the person's ability to safely
- 33 and skillfully practice osteopathic medicine or to any act of unprofessional
- 34 conduct as provided in this section.
- 35           19. Any conduct or practice contrary to recognized standards of ethics
- 36 of the osteopathic medical profession.
- 37           20. Violating or attempting to violate, directly or indirectly, or
- 38 assisting in or abetting the violation of or conspiring to violate any of the
- 39 provisions of this chapter.
- 40           21. Failing or refusing to maintain adequate records on a patient as
- 41 follows:
- 42           (a) If the patient is an adult, for at least seven years after the last
- 43 date the licensee provided the patient with medical or health care services.
- 44           (b) If the patient is a child, either for at least three years after
- 45 the child's eighteenth birthday or for at least seven years after the last

1 date the licensee provided that patient with medical or health care services,  
2 whichever date occurs first.

3 (c) If the patient dies before the expiration of the dates prescribed  
4 in subdivision (a) or (b) of this paragraph, for at least three years after  
5 the patient's death.

6 22. Using controlled substances or prescription-only drugs unless they  
7 are provided by a medical practitioner, as defined in section 32-1901, as  
8 part of a lawful course of treatment.

9 23. Prescribing controlled substances to members of one's immediate  
10 family unless there is no other physician available within fifty miles to  
11 treat a member of the family and an emergency exists.

12 24. Prescribing, dispensing or administering schedule II controlled  
13 substances as defined in section 36-2513 including amphetamines and similar  
14 schedule II sympathomimetic drugs in the treatment of exogenous obesity for  
15 a period in excess of thirty days in any one year.

16 25. Nontherapeutic use of injectable amphetamines.

17 26. Violating a formal order, probation or a stipulation issued by the  
18 board under this chapter.

19 27. Charging or collecting an inappropriate fee. This paragraph does  
20 not apply to a fee which THAT is fixed in a written contract between the  
21 physician and the patient and entered into before treatment begins.

22 28. Using experimental forms of therapy without adequate informed  
23 patient consent or without conforming to generally accepted criteria and  
24 complying with federal and state statutes and regulations governing  
25 experimental therapies.

26 29. Failing to make patient medical records in the physician's  
27 possession promptly available to a physician assistant, a nurse practitioner,  
28 a person licensed pursuant to this chapter or a podiatrist, chiropractor,  
29 naturopathic physician, physician or homeopathic physician licensed under  
30 chapter 7, 8, 13, 14 or 29 of this title on receipt of proper authorization  
31 to do so from the patient, a minor patient's parent, the patient's legal  
32 guardian or the patient's authorized representative or failing to comply with  
33 title 12, chapter 13, article 7.1.

34 30. Failing to allow properly authorized board personnel to have, on  
35 demand, access to any documents, reports or records that are maintained by  
36 the physician and that relate to the physician's medical practice or  
37 medically related activities pursuant to section 32-1855.01.

38 31. Signing a blank, undated or predated prescription form.

39 32. Obtaining a fee by fraud, deceit or misrepresentation.

40 33. Falsely claiming attendance at continuing medical education  
41 programs to meet license renewal requirements.

42 34. Failing to report to the board an osteopathic physician and surgeon  
43 who is or may be guilty of unprofessional conduct or is or may be mentally  
44 or physically unable safely to engage in the practice of medicine.

1       35. Referring a patient to a diagnostic or treatment facility or  
2       prescribing goods and services without disclosing that the physician has a  
3       direct pecuniary interest in the facility, goods or services to which the  
4       patient has been referred or prescribed. This paragraph does not apply to  
5       a referral by one physician to another physician within a group of physicians  
6       practicing together.

7       36. Lack of or inappropriate direction, collaboration or supervision  
8       of a licensed, certified or registered health care provider or office  
9       personnel employed by or assigned to the physician in the medical care of  
10      patients.

11      37. Violating a federal law, a state law or a rule applicable to the  
12      practice of medicine.

13      38. Prescribing or dispensing controlled substances or  
14      prescription-only medications without maintaining adequate and appropriate  
15      patient records.

16      39. Failing to dispense drugs and devices in compliance with article  
17      4 of this chapter.

18      40. Any conduct or practice that endangers a patient's or the public's  
19      health or may reasonably be expected to do so.

20      41. Any conduct or practice that impairs the licensee's ability to  
21      safely and skillfully practice medicine or that may reasonably be expected  
22      to do so.

23      42. With the exception of heavy metal poisoning, using chelation  
24      therapy in the treatment of arteriosclerosis or as any other form of therapy  
25      without adequate informed patient consent and without conforming to generally  
26      accepted experimental criteria, including protocols, detailed records,  
27      periodic analysis of results and periodic review by a medical peer review  
28      committee.

29      43. Prescribing, dispensing or administering anabolic-androgenic  
30      steroids to a person for other than therapeutic purposes.

31      44. Sexual intimacies with a patient.

32      45. Fetal experiments conducted in violation of section 36-2302.

33      46. Conduct that the board determines constitutes gross negligence,  
34      repeated negligence or negligence that results in harm or death of a patient.

35      47. Conduct in the practice of medicine which THAT evidences moral  
36      unfitness to practice medicine.

37      48. Wilfully harassing, abusing or intimidating a patient either  
38      physically or verbally.

39      49. Failing to furnish legally requested information to the board or  
40      its investigators in a timely manner.

41      50. Failing to disclose to a patient that the licensee has a direct  
42      financial interest in a prescribed treatment, good or service if the  
43      treatment, good or service is available on a competitive basis. This  
44      paragraph does not apply to a referral by one licensee to another licensee

1 within a group of licensees who practice together. A licensee meets the  
2 disclosure requirements of this paragraph if all of the following are true:

3 (a) The licensee makes the disclosure on a form prescribed by the  
4 board.

5 (b) The patient or the patient's guardian or parent acknowledges by  
6 signing the form that the licensee has disclosed the licensee's direct  
7 financial interest.

8 51. Prescribing, dispensing or furnishing a prescription medication or  
9 a prescription-only device to a person if the licensee has not conducted a  
10 physical examination of that person or has not previously established a  
11 physician-patient relationship. This paragraph does not apply to  
12 emergencies.

13 52. Failing to inform the board in writing within ten days after any  
14 change of the licensee's address of record.

15 53. If a licensee provides medical care by computer, failing to  
16 disclose the licensee's license number and the board's address and telephone  
17 number.

APPROVED BY THE GOVERNOR APRIL 1, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 1, 2004.

Passed the House February 24, 2004,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

Jake Flake  
Speaker of the House

Norman L. Moore  
Chief Clerk of the House

Passed the Senate March 29, 2004,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Klu Bennett  
President of the Senate

Charmine B. Bunting  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29th day of March, 2004

at 3:26 o'clock P. M.

Wendee Ibarra  
Secretary to the Governor

Approved this 1 day of

April, 2004,

at 11<sup>00</sup> o'clock A. M.

Jt. Ryzell  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1 day of April, 2004,

at 12:36 o'clock P. M.

Janice K. Brewer  
Secretary of State

H.B. 2180